ESTTA Tracking number:

ESTTA331038 02/08/2010

Filing date:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	MOSHE FREUND		
Entity	Individual	Citizenship	UNITED STATES
Address	1065 51st Street Brooklyn, NY 11219 UNITED STATES		

Attorney	Max Moskowitz
information	Ostrolenk Faber LLP
	1180 AVENUE OF THE AMERICAS, 7TH FLOOR
	NEW YORK, NY 10036
	UNITED STATES
	smcmahon@ostrolenk.com Phone:(212) 382-0700

Registration Subject to Cancellation

Registration No	1182161	Registration date	12/15/1981
Registrant	THE MANAGING TRUSTEE (100 PIER 1 PLACE FORT WORTH, TX 76102 UNITED STATES	OF PIER 1 SERVICE	S COMPANY

Goods/Services Subject to Cancellation

Class 020. First Use: 1980/11/26 First Use In Commerce: 1980/12/05 All goods and services in the class are cancelled, namely: Furniture

Grounds for Cancellation

Abandonment	Trademark Act section 14

Attachments	4906-4 - CARGO Petition for Cancellation.PDF (4 pages)(289905 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/MM/
Name	Max Moskowitz
Date	02/08/2010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration No. 1,182,1	61 X	
MOSHE FREUND	:	
	Petitioner,	Cancellation No.
V.	: :	
THE MANAGING TRUSTEE OF PIER SERVICES COMPANY	ONE	
	Respondent. :	

PETITION FOR CANCELLATION

Petitioner, Moshe Freund, an individual of the United States residing at 1065 51st Street, Brooklyn, New York 11219, believes that it will be damaged by the continued existence of Registration No. 1,182,161 of the mark CARGO (Stylized), issued on December 15, 1981, for "furniture" in Class 20, and therefore petitions to cancel the same. As grounds for its cancellation, Petitioner, by its attorneys Ostrolenk Faber LLP, alleges as follows:

- 1. U.S. Registration No. 1,182,161 for the mark CARGO (Stylized) for "furniture" in Class 20 issued to Butler Lumber Company, Inc., a corporation of Virginia, on December 15, 1981.
- 2. Through a series of assignments and name changes recorded before the Assignment Division of the United States Patent and Trademark Office ("USPTO"), Registration No. 1,182,161 now stands in the name of The Managing Trustee of Pier One Services Company ("Respondent"), a statutory trust organized and existing under the laws of the State of Delaware.

- 3. Petitioner's Application Serial No. 77/700,089 for the mark BABY CARGO has been refused registration in the U.S. Patent and Trademark Office based on a likelihood of confusion with the mark CARGO (Stylized) set forth in Registration No. 1,182,161.
- 4. Upon information and belief, Respondent's CARGO (Stylized) mark is no longer used in connection with the goods set forth in Registration No. 1,182,161.
- 5. Upon information and belief, Respondent has discontinued use of the CARGO (Stylized) mark with no intent to resume use and, therefore, has abandoned any and all claims of trademark rights in said mark.
- 6. Continued registration of Respondent's mark will damage Petitioner in that it will deny Petitioner a federal registration for its BABY CARGO mark and will adversely affect Petitioner's ability to protect its mark against infringers.
- 7. By reason of the foregoing, Petitioner has been damaged and will continue to be damaged by the continued registration of the mark CARGO (Stylized) to Respondent within the meaning 15 U.S.C. § 1064.

WHEREFORE, it is respectfully requested that this cancellation action be sustained and that Registration No. 1,182,161 be cancelled.

The cancellation fee in the amount of \$300.00 for one class is filed herewith. If for any reason this amount is insufficient, it is requested that Petitioner's attorneys' deposit account No. 15-0700 be charged with any deficiency.

Date: February 8, 2010

New York, New York

Respectfully submitted,

Max Mostoria

Max Moskowitz

Sean P. McMahon

OSTROLENK FABER LLP

1180 Avenue of the Americas

New York, New York 10036-8403

Tel: (212) 382-0700

Attorneys for Petitioner

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing PETITION FOR CANCELLATION was served upon the owner of record and counsel of record for Respondent by First Class Mail, postage pre-paid this 8th day of February, 2010 to:

The Managing Trustee of Pier One Services Company 100 Pier One Place Fort Worth, Texas 76102

Priscilla L. Dunckel, Esq. BAKER BOTTS LLP 2001 Ross Avenue Suite 600 Dallas, Texas 75021-2980

Sean P. McMahon